

1 RICHARD A. LEVINE, ESQ.
2 California State Bar No. 091671
3 RAIS LUCIA STERN ST PHALLE & SILVER PC
4 1428 Second Street, Suite 200
5 P.O. Box 2161
6 Santa Monica, California 90407-2161
7 Tele: (310) 393-1486
8 Fax: (310) 395-5801

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10 Attorneys for Plaintiff, Los Angeles Police Protective League

11
12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 FOR THE COUNTY OF LOS ANGELES

14
15 LOS ANGELES POLICE PROTECTIVE) Case No.:
16 LEAGUE)
17 Plaintiff,) **COMPLAINT FOR DECLARATORY**
18 vs.) **RELIEF [CCP§ 1060]; COMPLAINT**
19 CITY OF LOS ANGELES, a municipal) **FOR INJUNCTIVE RELIEF [CCP §**
20 corporation, CHARLIE BECK, Chief of) **526]**
21 Police, City of Los Angeles, and DOES 1)
22 through 20, inclusive,)
23 Defendants)
24)
25)
26)
27)
28)

I.

FIRST CAUSE OF ACTION FOR DECLARATORY RELIEF

22 For a First Cause of Action by Plaintiff, Los Angeles Police Protective League against
23 Defendants, City of Los Angeles, Charles Beck, Chief of Police for the City of Los Angeles and
24 Does 1 through 20, inclusive, for Declaratory Relief, Plaintiff alleges upon information and belief
25 as follows:

26 1. Plaintiff Los Angeles Police Protective League (hereinafter referred to as the
27 "League") at all times herein mentioned was, employee organization as defined in Government
28 Code Section 3500 et seq. recognized to represent all police officers, police detectives, sergeants

1 and lieutenants employed by the City of Los Angeles with regard to all matters concerning
2 wages, hours and working conditions. The League represented employees are peace officers as
3 defined within the California Penal Code.

4 2. Defendant, City of Los Angeles (hereinafter referred as "City") at all times
5 mentioned herein was a municipal corporation operating under the laws of the State of
6 California.

7 3. Defendant, Charlie Beck at all times mentioned herein was the Chief of Police of
8 the Police Department for the Defendant City of Los Angeles and charged with the general
9 supervision, administration and management of Los Angeles Police Department.

10 4. At all times mentioned herein, Does 1 through 20, inclusive, were the agents,
11 servants and employees of Defendant City, and in doing the things hereinafter alleged were
12 acting within the scope of their authority of such agents, servants and employees with their
13 permission and consent of the City. Plaintiff will amend this Complaint to allege the true names
14 and capacities of Does 1 through 20, inclusive when ascertained.

15 5. At all times mentioned herein, California Penal Code Section 148.6 provided as
16 follows:

§ 148.6. False allegations of misconduct against peace officers; advisory form; signature; civil claims intended to harass or dissuade officer

(a)(1) Every person who files any allegation of misconduct against any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, knowing the allegation to be false, is guilty of a misdemeanor.

(2) A law enforcement agency accepting an allegation of misconduct against a peace officer shall require the complainant to read and sign the following advisory, all in boldface type:

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CIVILIANS' COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CIVILIAN COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

1 IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW
2 TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER
3 KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A
4 MISDEMEANOR CHARGE.

5 I have read and understood the above statement.
6

7 Complainant
8

9 (3) The advisory shall be available in multiple languages.
10

11 (b) Every person who files a civil claim against a peace officer or a lien against his
12 or her property, knowing the claim or lien to be false and with the intent to harass
13 or dissuade the officer from carrying out his or her official duties, is guilty of a
14 misdemeanor. This section applies only to claims pertaining to actions that arise
15 in the course and scope of the peace officer's duties.

16 6. The California Supreme Court in *People v. Stanistreet* (2002) 29 Cal 4th 497 held
17 that California Penal Code Section 148.6 was constitutional on its face and did not violate free
18 speech rights where, *inter alia*, it proscribes only constitutionally unprotected speech involving
19 false statement of fact and does not otherwise constitute unconstitutional content discrimination.
20 In *Chaker v. Crogan* (2005) 428 F. 3d 1215, the 9th Circuit Court of Appeal granted a petition for
21 habeas corpus petition arising from a Penal Code Section 148.6 conviction in which the Court
22 found that such statute impermissibly discriminates on the basis of viewpoint in violation of the
23 First Amendment. Plaintiff contends that *Chaker v. Crogan* was incorrectly decided and/or
24 inapplicable in the instant matter. Penal Code Section 148.6 has not been repealed by the
25 California Legislature subsequent to the *Chaker* decision, and was amended in 2016 which
26 replaced the word "citizen" with "civilian".
27

28 7. The California Supreme Court in *People v. Stanistreet, supra* at 29 Cal 4th 503,
29 explained the legislature history of Section 148.6 as follows:
30

31 "[T]he Legislature enacted Section 148.6 in attempt to curb a perceived rising tide
32 of knowingly false citizens' complaints of misconduct by officers performing their
33 duties (citing *San Diego Police Officers Assn. v. San Diego Police Department*
34 (1999) 76 Cal.App.4th 19, 23.)

35 * * *

36 The bill's author provided additional background: "Yearly hundreds of unfounded
37 and false complaints are filed against Peace Officers. In the Los Angeles County
38 Sheriff's Department alone, over 500 complaints were received of which
39 approximately 60 to 70 % were unfounded. This bill will help prevent frivolous
40 complaints which can affect the individual officer's future. For example, a Deputy
41 Sheriff on a list for promotion to Sergeant receives a false report of misconduct,
42 after which his promotion is deferred until the matter is resolved. After which, the
43 complaint being found ungrounded, the Deputy has no recourse for any financial
44

1 loss due to the delay.” (Assem. Com. on Public Safety, Analysis of Assem. Bill
2 No. 1732, *supra*, p. 2.) A Senate committee report explained that section 832.5
3 requires complaints against peace officers be investigated and the records retained
4 for at least five years. It noted concerns with fraudulent complaints and the
‘adverse impact upon a deputy’s job mobility and promotional opportunity’ these
complaints can cause until they are resolved. (Sen. Com. on Criminal Procedure,
Analysis of Assem. Bill No. 1732 (1995-1996 Reg. Sess.) pp. 2, 4.)

5 8. During the pendency of the Consent Decree with the United States Department of
6 Justice (2001-2013), the Los Angeles Police Department was prohibited under Paragraph 74(h)
7 of the Decree from asking or requiring a potential complainant to sign any form that in any
8 manner limited or waived the ability of a civilian to file a police complaint with the LAPD or any
9 other entity. The Consent Decree was dismissed in May 2013 and the Police Department has
10 refused to reinstate the statutorily required admonition within civilian complaint forms as
11 otherwise required by Penal Code Section 148.6.

12 9. Plaintiff Los Angeles Police Protective League has requested that the Defendants'
13 Los Angeles Police Department comply with the clear and express directive of Penal Code
14 Section 148.6 that a law enforcement agency accepting an allegation of misconduct against a
15 peace officer shall require the complainant to read and sign the prescribed statutory advisory,
16 which includes the admonition that: “It is against the law to make a complaint that you know to
17 be false. If you make a complaint against an officer knowing that it is false, you can be
18 prosecuted on a misdemeanor charge.” (Penal Code Section 148.6 (a)(2))

19 10. Defendants City of Los Angeles, Charles Beck, Chief of Police and/or their agents
20 and representatives have refused to include the foregoing admonition when the Los Angeles
21 Police Department accepts an allegation of misconduct against League represented peace officers
22 who are adversely professionally and personally impacted by civilian complaints which are
23 knowingly false. False complaints filed against the Plaintiff's represented members adversely
24 affect, *inter alia*, officers' participation in promotional opportunities, restriction from assignment
25 to field duties with consequential impairment of overtime compensation and advancement,
26 removal from specialized units and divisional transfer. Additionally, gang members have been
27 known to manipulate the complaint process by targeting effective gang officers from their
28 assignments through the filing of multiple false complaints against such officers. Moreover, such

1 false complaints have been exploited by attorneys to obtain free administrative investigation and
2 discovery in personal injury lawsuits or otherwise maliciously abused by individuals with ulterior
3 motivation or hostility toward law enforcement. Lastly, valuable law enforcement resources of
4 the Police Department are unnecessarily diverted by time consuming administrative investigation
5 into knowingly false civilian complaints against law enforcement personnel of the Police
6 Department.

7 11. An actual and justiciable controversy has arisen, and now exist between Plaintiff, on
8 one hand and the Defendants on the other hand, as to whether Defendants must comply with
9 Penal Code Section 148.6 (a)(2) by requiring a complainant alleging peace officer misconduct to
10 read and sign the prescribed statutory advisory which includes the admonition that: "It is against
11 the law to make a complaint that you know to be false. If you make a complaint against an officer
12 knowing that it is false, you can be prosecuted on a misdemeanor charge."

13 12. Pursuant to Code of Civil Procedure Section 1060, Plaintiff seeks a declaratory
14 determination that Penal Code Section 148.6 (a)(2) statutory admonition on civilian complaint
15 forms is legally valid, enforceable and must be implemented by Defendants for the Los Angeles
16 Police Department.

17 13. Such judicial determination is necessary and appropriate in order that the parties
18 may ascertain their respective legal rights and duties.

14. Plaintiff has exhausted all available administrative remedies applicable herein.

20 15. The successful prosecution of this action will result in the enforcement of an
21 important right affecting the public interest in that a significant benefit will have been conferred
22 upon a large class of persons and consequently, Plaintiff are entitled to an award of attorney's
23 fees pursuant to Section 1021.5 of the California Code of Civil Procedure.

III.

SECOND CAUSE OF ACTION

26 16. For a Second Cause of Action by Plaintiff, Los Angeles Police Protective League
27 against Defendants, City of Los Angeles, Charles Beck, Chief of Police for the City of Los
28 Angeles and Does 1 through 20, inclusive, for Injunctive Relief, Plaintiff realleges paragraphs 1-

10, 14-15 and further alleges upon information and belief as follows:

17. Unless and until the Defendants are enjoined from accepting an allegation of misconduct against Plaintiff's represented peace officers, without the complainant being required to read and sign the prescribed statutory admonition, Defendants will be violating the mandatory requirements of Penal Code Section 148.6 (a)(2).

18. Plaintiff's represented peace officers will suffer great and irreparable injury unless injunctive relief is issued by this Court where League represented peace officers are adversely professionally and personally impacted by civilian complaints which are knowingly false and that absent the inclusion of the statutory admonition required on such complaint forms under Penal Code Section 148.6, any criminal prosecution for violation thereunder will be foreclosed.

WHEREFORE, Plaintiff Los Angeles Police Protective League prays for Judgment against Defendants and each of them as follows:

FIRST CAUSE OF ACTION

1. That this Court render a judicial determination that Penal Code Section 148.6 (a)(2) statutory admonition on civilian complaint forms is legally valid, enforceable and must be implemented by Defendants in the Los Angeles Police Department;

2. That the Court award Plaintiff attorney's fees pursuant to Section 1021.5 of the Code of Civil Procedure;

3. For cost of suit herein incurred;

4. For such other and further relief of this Court may deem proper and necessary.

SECOND CAUSE OF ACTION

1. For injunctive relief enjoining the Defendants from accepting an allegation of misconduct against Plaintiff's represented peace officers, without the complainant being required to read and sign the prescribed statutory admonition pursuant to Penal Code Section 148.6 (a)(2);

2. That the Court award Plaintiff attorney's fees pursuant to Section 1021.5 of the Code of Civil Procedure;

3. For cost of suit herein incurred; and

4. For such other and further relief of this Court may deem proper and necessary.

RAINS LUCIA STERN
ST. PHALLE & SILVER, PC

Dated: September 11, 2017

By: RICHARD A. LEVINE, ESQ.
Attorneys for Plaintiff Los Angeles Police
Protective League